



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 220318-0074]

RIN 0648-BK90

Pacific Island Fisheries; 2022-2025 Annual Catch Limits and Accountability Measures for Main Hawaiian Islands Uku (Gray Jobfish)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, NMFS implements an annual catch limit (ACL) of 295,419 lb (134 metric tons (t)), an annual catch target (ACT) of 291,010 lb (132 t), and accountability measures (AM) for main Hawaiian Islands (MHI) uku for fishing years 2022, 2023, 2024, and 2025. These ACLs and ACTs apply to the total combined commercial and non-commercial catch of uku. As an in-season accountability measure, if NMFS projects that the total catch will reach the ACT in any given fishing year, we would close commercial and non-commercial uku fisheries in Federal waters for the remainder of the fishing year. As a post-season AM, if NMFS determines that the most recent three-year average total catch exceeded the ACL in a fishing year, we would reduce the ACL and ACT for the

following fishing year by the amount of the overage. This rule supports the long-term sustainability of MHI uku.

DATES: The final rule is effective [*insert date 30 days after date of publication in the **FEDERAL REGISTER***].

ADDRESSES: Copies of the Fishery Ecosystem Plan for the Hawaii Archipelago (FEP) are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel. 808-522-8220, fax 808-522-8226, or www.wpcouncil.org.

Copies of the environmental analyses and other supporting documents for this action are available from <https://www.regulations.gov/docket?D=NOAA-NMFS-2021-0088>, or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: David O'Brien, NMFS PIRO Sustainable Fisheries, 808-725-5038.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the MHI uku fishery in Federal waters around Hawaii under the Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP), as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS is required under the regulations at 50 CFR 665.4 to specify an ACL, and optionally specify an ACT, for MHI uku each fishing year based on a recommendation from the Council. The

specification of an ACT reduces the likelihood that the ACL will be exceeded.

The Council recommended that NMFS implement ACLs, ACTs, and AMs for MHI uku for 2022, 2023, 2024, and 2025. The fishing year for MHI uku is the calendar year. The Council recommended an ACL of 295,419 lb and ACT of 291,010 lb based on a 2020 MHI uku stock assessment, in consideration of the risk of overfishing, past fishery performance, the acceptable biological catch recommendation from its Scientific and Statistical Committee, and with opportunity for public input.

As an in-season AM, if NMFS projects that total catch will reach the ACT, we would close Federal waters to the commercial and non-commercial fisheries for MHI uku for the remainder of the fishing year. As a post-season AM, if NMFS determines that the most recent three-year average MHI uku total catch exceeds the ACL in any given year, NMFS would reduce the ACL and ACT for the subsequent fishing year by the amount of the overage with a subsequent rulemaking.

You may find additional background information on this action in the preamble to the proposed rule published on December 27, 2021 (86 FR 73234).

Comments and Response

On December 27, 2021, NMFS published a proposed rule, a draft Environmental Assessment, and regulatory impact review for public comment (86 FR 73234). The comment period

ended January 26, 2022. NMFS received no comments on the proposed rule.

Changes from the Proposed Rule

This final rule contains minor housekeeping corrections to the proposed rule. The regulation at 50 CFR 665.211 implements annual catch limits for two fisheries, the MHI Deep 7 bottomfish fishery and the MHI uku fishery, the latter of which is the subject of this final rule. Since the MHI uku proposed rule published, a MHI Deep 7 final rule implementing ACLs and AMs for fishing years 2021-2024 became effective (February 22, 2022, 87 FR 3045) and amended 50 CFR 665.211. This MHI uku final rule considers section 665.211 as amended by the MHI Deep 7 final rule and, therefore, differs slightly from what we presented in the MHI uku proposed rule. Specifically, 50 CFR 665.211(a) as amended by this MHI uku final rule now reflects the Deep 7 ACLs for fishing years 2021-22, 2022-23, and 2023-24. In addition, the Deep 7 final rule added a new paragraph at 50 CFR 665.211(f) and so this MHI uku final rule, instead of redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e) as stated in the MHI uku proposed rule, redesignates paragraph (f) as paragraph (g) and adds a new paragraph (f). These housekeeping changes have no material effect on management of the uku bottomfish fishery.

Classification

Pursuant to section 304(b) (3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. NMFS received no comments regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 665

Accountability measures, Annual catch limits, Bottomfish, Fisheries, Fishing, Hawaii, Pacific Islands.

Dated: March 21, 2022.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends
50 CFR part 665 as follows:

PART 665 – FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665
continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 665.211 revise the section heading and
paragraphs (a) and (b), redesignate paragraph (f) as
paragraph (g), add a new paragraph (f), and republish newly
redesignated paragraph (g) to read as follows:

**§ 665.211 Annual Catch Limits (ACL) and Annual Catch
Targets (ACT).**

(a) In accordance with § 665.4, the ACLs and ACTs for
MHI bottomfish fisheries for each fishing year are as
follows:

Fishery	2021-22 ACL (1b)	2022-23 ACL (1b)	2023-24 ACL (1b)
Deep 7 bottomfish	492,000	492,000	492,000

Fishery	2022 ACL (1b)	2023 ACL (1b)	2024 ACL (1b)	2025 ACL (1b)
Uku	295,419	295,419	295,419	295,419

Fishery	2022 ACT (1b)	2023 ACT (1b)	2024 ACT (1b)	2025 ACT (1b)
Uku	291,010	291,010	291,010	291,010

(b) When a bottomfish ACL or ACT is projected to be reached based on analyses of available information, the Regional Administrator shall publish a document to that effect in the **Federal Register** and shall use other means to notify permit holders. The document will include an advisement that the fishery will be closed beginning at a specified date, which is not earlier than seven days after the date of filing the closure notice for public inspection at the Office of the **Federal Register**, until the end of the fishing year in which the ACL or ACT is reached.

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(f) If the average total landings of uku in the most recent three years exceed the specified ACL in a fishing year, the Regional Administrator will reduce the uku ACL and ACT for the subsequent year by the amount of the overage in a separate rulemaking.

(g) Fishing for, and the resultant possession or sale of, any bottomfish MUS by vessels legally registered to Mau Zone, Ho'omalulu Zone, or PRIA bottomfish fishing permits and conducted in compliance with all other laws and regulations, is exempted from this section.